



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2008-0446; A-1-FRL- 9842-2]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Regulations Limiting Emissions of Volatile Organic Compounds and Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These are revisions to existing air pollution control requirements for stationary sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_x). This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2008-0446 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov
3. Fax: (617) 918-0047.
4. Mail: "Docket Identification Number EPA-R01-OAR-2008-0446," Anne Arnold, U.S.

Environmental Protection Agency, EPA New England Regional Office, Office of

Ecosystem Protection, Air Quality

Planning Unit, 5 Post Office Square -

Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912.

5. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, (mail code OEP05-2), Boston, MA 02109 - 3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2008-0446. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider

your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1046, fax number (617) 918-0046, email mcconnell.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. Additionally, the phrase “the Commonwealth” refers to the Commonwealth of Massachusetts.

Organization of this document. The following outline is provided to aid in locating information contained in this preamble.

I. Background and Purpose.

II. Summary of State’s Submittal

- a. Revisions to 310 CMR 7.00, Definitions.
- b. Revisions to 310 CMR 7.05, Fuels All Districts.
- c. Revisions to 310 CMR 7.18, Volatile and Halogenated Organic Compounds.
- d. Revisions to 310 CMR 7.19, Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_x).
- e. Revisions to 310 CMR 7.24, Organic Material Storage and Distribution.

III. Proposed Action

IV. Statutory and Executive Order Reviews

I. Background and Purpose.

On July 11, 2001, and September 14, 2006, the Massachusetts Department of Environmental Protection (DEP) submitted two separate requests for proposed revisions to its SIP. The July 11, 2001 submittal was supplemented with two additional submittals, one on August 9, 2001, and a second on January 18, 2002 (collectively referred to herein as the July 11, 2001 submittal).

The July 11, 2001 submittal includes revisions to Title 310 of the Code of Massachusetts Regulations (CMR), section 7.19, Reasonably Available Control Technology (RACT) for Sources of Nitrogen Oxides (NO_x). Public hearings were held on July 25, 2000 and July 27, 2000 regarding the Commonwealth's July 11, 2001 submittal.

The September 14, 2006 submittal included revisions to 310 CMR 7.00, Definitions; 7.05, Fuels All Districts; 7.19, RACT for Sources of NO_x; and 7.24, Organic Material Storage and Distribution.¹ Public hearings were held on February 11, 2004, and February 12, 2004, regarding the proposed revisions to 310 CMR 7.00, 7.05, 7.18, and 7.19 submitted by the Commonwealth on September 14, 2006. Public hearings were held on October 18, 2005 and October 19, 2005, regarding the proposed revisions to 310 CMR 7.00 and 7.24 submitted by the Commonwealth on September 14, 2006.

II. Summary of State's Submittal.

a. Revisions to 310 CMR 7.00, Definitions.

The Commonwealth's submittal includes a number of terms to be added or revised to 310 CMR 7.00, Definitions. The terms are defined to facilitate interpretation and understanding, and enhance enforceability, of the state's air pollution control regulations. Definitions for 81 terms are included in the Commonwealth's submittal and we are proposing to incorporate these terms into the Massachusetts SIP. A list of these terms and the Commonwealth's definitions for them are included in the Docket for this rulemaking. These definitions as used in the Commonwealth's regulations that are currently approved into the Massachusetts SIP are

consistent with the applicable requirements of the Clean Air Act. Among the more significant definitions being amended are several which pertain to the Commonwealth's new source review program, as follows: "Federal potential to emit"; "nonattainment area"; and "Potential emissions or potential to emit." These definitions were strengthened and are consistent with federal requirements under the Clean Air Act.

b. Revisions to 310 CMR 7.05, Fuels All Districts.

The Commonwealth's September 16, 2006 submittal included a minor change to 310 CMR 7.05(2), Use of Residual Fuel Oil or Hazardous Waste Fuel. The change consists of removing landfill gas from the requirements of the section, as applicability to that fuel source appears to have been unintentional, and several minor, technical wording changes.

c. Revisions to 310 CMR 7.18, Volatile and Halogenated Organic Compounds.

Massachusetts' September 14, 2006 submittal included changes to previously adopted portions of 310 CMR 7.18, Volatile and Halogenated Organic Compounds. The majority of the changes were minor and designed to improve the clarity of the regulation. A brief summary of the more substantive changes is provided below.

Within 310 CMR 7.18(1), Applicability and Handling Requirements, the requirements for coating mixing tanks were strengthened by adding tank cover requirements.

Within 310 CMR 7.18(2), Compliance with Emission Limits, a provision allowing daily-weighted averaging of coating limits was inserted to provide greater flexibility to operators.

¹ Note that the September 14, 2006 submittal included additional revisions (such as 310 CMR 7.06) that were

This compliance option is consistent with ⁷ EPA's policy for coating regulations. See EPA's "Model VOC Rules for RACT," dated June, 1992.

Within 310 CMR 7.18(8), Solvent Metal Degreasing, an exemption was added for aqueous cleaners that meet specified criteria. This is a non-significant amendment because the exemption applies to water-based cleaners.

Within 310 CMR 7.18(11), Surface Coating of Miscellaneous Metal Parts and Products, revised wording was provided to clarify exemption eligibility requirements.

Within 310 CMR 7.18(19), Synthetic Organic Chemical Manufacture, revised language was provided to clarify the submittal date for quarterly reporting.

Within 310 CMR 7.18(20), Emission Control Plans for Implementation of RACT, revised language clarifies an exemption for certain facilities issued approvals pursuant to 310 CMR 7.02, Plan Approvals. A provision allowing for additional requirements, such as stack testing or emissions monitoring, that would be added to emission control plans was also incorporated into this section.

Within 310 CMR 7.18, language that strengthens compliance obligations by adding federally-enforceable emission limits, was added to the following sections: of 310 CMR 7.18: (21), Surface Coating of Plastic Parts; (22), Leather Surface Coating; (23), Wood Products Surface Coating, (24), Flat wood Paneling Surface Coating; (25), Offset Lithographic Printing; and, (26), Textile Finishing.

Section 7.18(27), Coating Mixing Tanks, within which several minor wording changes were made to improve the clarity of the regulation.

Within 310 CMR 7.18(28), Automotive Refinishing, new emission limits were established for multi-colored topcoats. Additionally, new labeling and recordkeeping

subsequently withdrawn in a letter from MA DEP to EPA dated January 18, 2013.

requirements were added, and exemptions for touch up coatings, stencil coatings, and coatings sold in non-refillable aerosol containers were added to the automotive refinishing requirements. The exempted applications are reasonable and all pertain to very low volume applications. EPA's automotive refinishing regulation similarly exempts such coatings. See 40 CFR Part 59 Subpart B.

d. Revisions to 310 CMR 7.19, RACT for Sources of Oxides of Nitrogen.

As noted earlier in this notice, on July 11, 2001, the Commonwealth submitted proposed SIP revisions to EPA. This submittal was supplemented with additional materials sent to EPA on August 9, 2001 and January 18, 2002. Included within these submittals was an addition to the list of sources exempt from NO_x RACT. Specifically, an exemption from NO_x RACT requirements was added for any source that obtained a plan approval under 310 CMR 7.02 establishing best available control technology (BACT) or lowest achievable emission rate (LAER) that is no less stringent than what would be required for RACT under 7.19. This amendment is consistent with the requirements of the Clean Air Act because it ensures a level of NO_x control at least as stringent as that required by RACT. The Commonwealth's September 16, 2006 submittal contained further revisions to 7.19 which consisted of minor editorial changes.

e. Revisions to 310 CMR 7.24, Organic Material Storage and Distribution.

The Commonwealth's September 16, 2006 submittal contained a change to the tank inspection requirements located at 310 CMR 7.24(1)(d)(7). The change removed the

requirement that the covers and seals of double seal system tanks be inspected once every five years. These inspections must now occur whenever the tank is emptied for non operational reasons or once every 10 years, whichever is sooner.²

Prior versions of 310 CMR 7.00, 7.05, 7.18, 7.19, and 7.24 have previously been approved by EPA into the Massachusetts SIP. See 40 CFR 52.1120 and 52.1167. Today's amendments clarify and/or enhance the enforceability of the existing regulations and on balance would not result in any increases in VOC or NO_x emissions. Therefore, the anti-backsliding requirements of section 110(l) of the Clean Air Act are met.

EPA's review of this material indicates that the Commonwealth's requests are approvable and consistent with the requirements of the Clean Air Act, and we are therefore proposing approval of them. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this Federal Register.

III. Proposed Action.

As noted earlier in this notice, EPA is proposing to approve SIP revisions submitted by the Commonwealth of Massachusetts pertaining to the following sections of 310 CMR : 7.00, Definitions; 7.05, Fuels All Districts; 7.18, Volatile and Halogenated Organic Compounds; 7.19,

² Emptying of such tanks during inspections causes a release of VOCs, therefore minimizing the occurrence of such is beneficial. For example, the EPA document "Gasoline Distribution Industry – Stage 1 – Background Information for Promulgated Standards" (November, 1994), notes that emptying and refilling a 150 foot diameter tank will generate approximately 7 tons of VOC emissions.

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RACT for Sources of Oxides of Nitrogen (NO_x); and 7.24, Organic Material Storage and Distribution.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 et seq.

Dated: July 23, 2013.

H. Curtis Spalding,
Regional Administrator,
EPA New England.